

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES,
Plaintiff,
v.
JOSEPH SHAYOTA, et al.,
Defendants.

Case No.15-CR-00264-LHK

**ORDER REQUIRING PRODUCTION
OF DEPOSITION TRANSCRIPTS**

Re: Dkt. Nos. 209, 213, 216, 218, 220

In the Government's Notice Pursuant to 404(b) of the Federal Rules of Evidence, ECF No. 209, the Government stated that it intended to introduce "other act" evidence derived from documents including depositions in a civil case in the Eastern District of New York, *Innovation Ventures, et al. v. Ultimate One Distributing Corp., et al.*, No. 12-CV-5354 (KAM). In four separate motions, Defendants opposed the admission of this evidence under Federal Rules of Evidence 404(b) and 403.

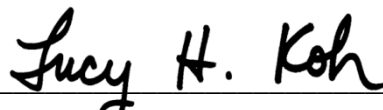
"Other acts evidence is admissible under Rule 404(b) if it (1) tends to prove a material point in issue; (2) is not too remote in time; (3) is proven with evidence sufficient to show that the act was committed; and (4) if admitted to prove intent, is similar to the offense charged." *See United States v. Beckman*, 298 F.3d 788, 794 (9th Cir. 2002). Therefore, in order to evaluate

whether the Government's proffered evidence is admissible, the Court must determine whether each defendant committed the alleged act. Most defendants admit or do not dispute that they committed the alleged acts. *See, e.g.*, ECF No. 216 at 5–6. However, one defendant, Camilo Ramirez, challenges some of this evidence on the ground that it does not demonstrate that he was involved in the alleged scheme regarding Equal, Splenda, and Uncle Ben's Rice. *See* ECF No. 213 at 2 ("Nothing in any of the depositions suggests that [Camilo Ramirez] was involved in any way with this allege scheme.").

Therefore, the Court ORDERS that by September 26, 2016, the Government shall provide the Court with the following transcripts so that the Court may determine whether the Government has met its burden of showing that Camilo Ramirez committed the alleged act: Deposition of Joseph Shayota, Bates No. 0019159–0019432; Deposition of Adriana Shayota, Bates No. 0018799–0019070; Deposition of Walid Jamil, Bates No. 0033202–0033454; Deposition of Walid Jamil, Bates No. 0021511–0021769; FBI Interview of Mario Ramirez, Bates No. 5HR-000221, Deposition of Mario Ramirez, Bates No. 0015068–0015366 and Exh. 18 (22750, 22752); Deposition of Mario Ramirez, Bates No. 00012886–001306; Deposition of Camilo Ramirez, Bates No. 0007243.

IT IS SO ORDERED.

Dated: September 23, 2016



LUCY H. KOH
United States District Judge